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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-seventh session

SUMMARY RECORD OF THE 61st MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 13 November 2001, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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Fourth periodic report of Sweden

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)

Fourth periodic of report of Sweden (E/C.12/4/Add.4; E/C.12/Q/SWE/2; written replies to the list of issues, prepared by the Government of Sweden (document without a symbol); HRI/CORE/1/Add.4)

1. At the invitation of the Chairperson, the members of the delegation of Sweden took places at the Committee table.

2. The CHAIRPERSON welcomed the members of the Swedish delegation on behalf of the Committee, and invited the head of the delegation to take the floor.

3. Ms. BERGH (Sweden) began by stressing the importance her Government attached to the contributions of Swedish non-governmental organizations (NGOs), including their reporting to treaty bodies. The Government recognized efforts to promote and protect all human rights, including economic, social and cultural rights, as one of its chief tasks. A working group mandated to elaborate a national action plan for human rights had been established in May 2000, and had taken careful account of the views of all the various sectors of society. There had been informal consultation with ombudsmen's representatives, various authorities and organizations, researchers and NGO's and the action plan was scheduled for submission to Parliament before the end of 2001. In addition, a National Action Plan against Racism, Xenophobia, Homophobia and Discrimination had been adopted in February 2001. The Plan focused, inter alia, on improved legislation, increased awareness of discrimination, support for local efforts, and on the role of NGOs and of the National Integration Office, and was seen as merely the beginning of a longer process. A copy had been made available to the Chairperson.

4. The practice of compiling statistics relating to race, colour, religion or ethnicity was strongly opposed in many countries, including Sweden, not least by individuals from the groups concerned. It was feared that such information could easily be misused and would in any case have a divisive effect. There were other ways to assess the representation of groups in various social sectors and the extent of any discrimination. Accordingly, Sweden did not compile such information and could provide the Committee with no statistics of the kind requested. Its integration policy was no longer based simply on the notion of integrating immigrants and refugees, but rather on that of all inhabitants integrating with each other. Almost 1 million of the current population had been born outside the country, and nearly as many had at least one immigrant parent. Immigrants and refugees often faced discrimination. Many lived in segregated neighbourhoods, their children attended schools where few pupils were native Swedes and Swedish was seldom spoken outside the classroom, and they encountered disparities with native Swedes in many other respects, not least in employment. Introductory programmes - the responsibility of municipalities, but enjoying State support - played a crucial role in that regard; and the Government had recently decided to appoint a commission with a view to improving the reception of refugees and their integration into society.

5. Although Swedish society was regarded as exhibiting a relatively high degree of equality between women and men, considerable imbalance remained, an extreme example being violence by men against women, the criminalization of which was a government priority. Certainly the reporting rate of such violence had increased, but much violence must still be going unrecorded. In that regard, the University of Uppsala had recently published a Government-sponsored report, which sadly but unsurprisingly confirmed that violence against women was rife.

6. One aim of the Government's 1998 bill to deal with violence against women was to ensure better treatment of victims by the authorities. A nationwide training programme aimed at criminal justice, social welfare and health-care personnel used material produced by a joint project group. The Government had recently submitted to Parliament a bill whose proposals included extending the possibility of legal representation in court, free of charge, for victims of crime. The relevant amendment, which had entered into force on 1 July 2001, would benefit women in particular. However, violence against disabled women remained a serious problem. The National Council for the Protection of Women against Violence, an advisory body to the Government, had presented a study which showed how much remained to be done in that regard. The Government's National Action Plan for Disability Policy included the training of public-sector personnel in assisting people with disabilities. The Government also supported men's organizations which combated violence against women. A special project for that purpose was conducted in dialogue with immigrants' organizations.

7. A Parliamentary Law Committee on sexual offences, reporting to the Government in March 2001, had proposed, inter alia, special provisions in the Penal Code establishing criminal liability for trafficking in persons and children for sexual purposes. Measures to combat trafficking in women and children were a priority for Sweden as well as for the European Union; during its presidency of the latter, Sweden had given high priority to two framework decisions in that regard. In December 2000, it had signed the United Nations Convention against Transnational Organized Crime and the supplementary protocol to prevent, suppress and punish trafficking in persons, especially women and children. An international conference on women and democracy, held in Vilnius, Lithuania, in June 2001, had agreed to launch a joint Nordic-Baltic campaign against trafficking in women and children for sexual exploitation in 2002. In that connection, Sweden viewed prostitution as a crime, and exploitation of prostitutes had been a criminal offence in Sweden since 1 January 1999. The Government recognized, however, that prohibition alone was not enough, and that social welfare services must also be involved.

8. Sweden's welfare policy aimed at combating poverty and social exclusion. The Swedish welfare system was based on a policy of full employment for men and women and a universal social security system. Sweden's entire population enjoyed individual rights, and the country had opted for a universal social security system with income-related benefits rather than minimum benefit levels. The severe economic crisis in the first half of the 1990s and the consequent fivefold increase in unemployment had forced substantial budget cuts, which had affected compensation levels and the health, unemployment and parental insurance systems, pensions and municipal charges, as well as education and childcare. Following the economic upturn of the mid-1990s the policy of austerity had given way to one of reform, and the system

had now largely recovered. Sweden's welfare systems had weathered the economic storm of the 1990s, helped by a comprehensive social security system that compensated for loss of income resulting from the major problems that most of the population was likely to face.

9. Once the Committee had issued its concluding observations, the Government would organize a press conference in Sweden, to which the media, NGOs and other interested parties would be invited. Her delegation appreciated the present opportunity for discussion with the Committee and would endeavour to answer any questions members might wish to put.

10. The CHAIRPERSON thanked the representative of Sweden for her statement. As the current session was the first to be held since the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, she was very interested to receive from the Swedish delegation a copy of that country's National Action Plan against Racism, Xenophobia, Homophobia and Discrimination, which would be placed on file for members to consult. The information concerning men's organizations to combat violence against women also reflected a welcome development. She invited members of the Committee to put questions relating to the Swedish Government's written replies to Nos. 1-4 of the list of issues (E/C.12/Q/SWE/2).

11. Mr. RIEDEL said he found the answer provided on the subject of the proposed optional protocol perfunctory but not surprising. With regard to No. 4 of the list of issues, the establishment of a national action plan was a laudable step, particularly given the wide participation envisaged. However, none of the 10 areas for a working group's special attention, mentioned in the report appeared to relate to economic, social or cultural rights - unless attention to those rights could be subsumed under the subject of international protection for human rights. He would like to know, therefore, whether the creation of a national human rights institution, similar to those in Denmark, Germany and elsewhere, was envisaged; whether the 1991 Paris Principles would be taken into account; and, especially, what steps had been taken to provide benchmarks for the exercise of economic, social and cultural rights, which seemed to be accorded little importance in Sweden.

12. Mr. SADI asked what problems could be attributed to Sweden's rather swift transition from a largely homogeneous to a multicultural society. He would also like to know whether, and if so how, the State welfare system was affected by a current international climate which favoured privatization. He also wondered what impact the terrorist acts of 11 September 2001 in the United States of America had had on the exercise of economic, social and cultural rights, especially with regard to immigrants and asylum-seekers. Lastly, having always viewed prostitution as a violation of human rights, he welcomed the reported action to combat it.

13. Mr. TEXIER noted that the report provided no information about the invoking of the Covenant in domestic courts. In that regard, Sweden seemed to take a negative attitude to the proposed optional protocol to the Covenant, as well as to the Twelfth Protocol to the European Convention on Human Rights. He urged the Swedish authorities to review their position in that regard. It should be possible to invoke economic, social and cultural rights in law, but Sweden seemed to have misgivings about doing so. He would welcome more information on that subject.

14. Mr. HUNT endorsed Mr. Riedel's comments about a national action plan. Paragraphs 35, 36 and 37 of the core document (HRI/CORE/1/Add.4) referred to various ombudsman offices, but it was not clear whether a national human rights institution, responsible for promoting and protecting economic, social and cultural rights, was envisaged.

15. Mr. CEAUSU said that, according to the reply to No. 2 of the list of issues, no information was available relating to any cases in which the Covenant had been directly invoked in the courts. The Swedish authorities' philosophy was seemingly to enact enabling legislation, rather than to allow individuals to invoke that instrument in the courts. That philosophy differed from the approach of most States parties and raised the question of what would happen if a court ruled that a domestic law did not conform to the Covenant's provisions. He wondered whether the latter could be invoked, and whether they would prevail over domestic legislation, in case of conflict.

16. The CHAIRPERSON invited the delegation of Sweden to respond to the Committee members' comments.

17. Ms. BERGH (Sweden) thought it unfair to say that Sweden attached little importance to economic, social and cultural rights. Rights, such as those to housing, education and social welfare, were recognized as a State responsibility and were implemented through legislation. Different countries had different constitutional traditions, and no universal model could be applied to all. Sweden adhered to the principle that international treaties did not automatically become part of Swedish law but needed to be enacted or incorporated in Swedish law in order to become directly applicable. According to Swedish case law, domestic legislation and any amendments thereto must be interpreted in accordance with Sweden's international obligations; but international treaties could not be said to prevail over domestic law.

18. With regard to individual rights, the Covenant was implemented through legislation and any individual naturally had the right to appeal against decisions taken in accordance with that legislation. In her view individual rights were thus guaranteed in conformity with the Covenant.

19. Although Sweden did not have a national human rights institution, it had a range of ombudsmen who dealt with issues such as children's rights, the rights of persons with disabilities, and discrimination on various grounds: Sweden had been the first country to institute an ombudsman to deal with discrimination on grounds of sexual orientation. The ombudsmen could be said to promote and protect economic, social and cultural rights insofar as they had a duty to defend individuals against discrimination, and indeed the Ombudsman on Ethnic Discrimination also dealt with the criminal offence of discrimination on ethnic grounds within the goods and services sector.

20. A commission was currently considering whether a national human rights institution should be established to deal with all cases of discrimination, not only in the labour market but also in other areas of society such as education and goods and services. Both the National Action Plan against Racism, Xenophobia, Homophobia and Discrimination and the national action plan for human rights, which it was hoped would be adopted by the end of 2001, contained commitments to look into the question of a national human rights institution.

21. In response to Mr. Riedel's point, she said Sweden was taking the question of an optional protocol to the Covenant seriously. Prior to ratification, Sweden had carried out a comprehensive review to ensure that its legislation conformed to the Covenant, and it had participated actively in discussions on the optional protocol. It was looking forward to the report of the independent expert, which was to be presented in March 2002. However, the Government remained unconvinced that an individual complaints mechanism was necessarily the best way forward in the universal realization of economic, social and cultural rights. The criterion used to assess such a mechanism must ultimately be whether it made a difference to individuals' lives.

22. Many aspects of the question needed to be considered, not least the principle of progressive implementation of economic, social and cultural rights and the meaning of the words "to the maximum of its available resources" (art. 2, para. 1). Legal clarity would also be a prerequisite for the establishment of a complaints mechanism.

23. Ms. MANSNERUS (Sweden), responding to Mr. Sadi's question concerning the impact of the private sector on the public welfare system, said that only a few services had been privatized, and even they were still financed largely by public funds. Only a small part of the population was affected as yet: for example, only 15 per cent of young children were in private child care institutions and only 4 per cent of children in compulsory education attended independent schools. Drug treatment facilities, on the other hand, had long been mainly private and the general public seemed to appreciate the freedom of choice. It was true that there were fears for the future of public facilities, and the authorities needed to take account of that concern when issuing guidelines; but in general, there was nothing to indicate a decline in people's trust in the public system.

24. Mr. LINDQVIST (Sweden), responding to Mr Sadi's question on the experience of moving towards a multicultural society, said that one in five of Sweden's inhabitants had been born abroad or had at least one parent who had been born abroad. Sweden could not have achieved its present state of development without its 2 million inhabitants of foreign origin. There had naturally been difficulties and tensions, since substantial changes had been necessary in all areas of policy development and implementation. However, thus far there had been no major problems.

25. The main area of concern following the events of 11 September 2001was relations between Sweden's Muslims and its other inhabitants. Reports of harassment and violence against Muslims had been taken very seriously. The Immigration Board had immediately set up a programme to chart outbreaks of Islamophobia and to arrange dialogues at the local and regional levels between Muslims and representatives of various institutions throughout the country. The Government was also funding a European Union project on State policies towards Muslims, run jointly by the universities of Gothenburg in Sweden, Warwick in the United Kingdom and Berlin in Germany, the aim of which was to recommend ways of improving relations between Muslims and others in those countries.

26. Ms. BERGH (Sweden), responding to Mr. Riedel, said it was not quite true to say that the action plan for human rights did not mention economic, social and cultural rights. The

Government had proposed stepping up training for groups such as judicial and other officials, with a special emphasis on economic, social and cultural rights, in the hope that courts would refer more frequently to the Covenant.

27. Mr. SADI said that the status of the Covenant was central to the dialogue between the State party and the Committee and that as long as they had different perspectives, dialogue would be difficult. The Committee had been established to interpret the Covenant and its jurisprudence indicated that it was necessary to make the Covenant directly applicable; the Committee also took the position that even progressively realizable rights should be justiciable.

28. Ms. BERGH (Sweden) said that her Government believed it had fulfilled its obligations under the Covenant by legislative means. However, the question clearly needed to be referred back for further discussion.

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29. The CHAIRPERSON invited Committee members to comment on the Government's written replies to issues Nos. 5 to 12 in the list of issues.

30. Mr. AHMED said it was clear that Sweden had a very good record with regard to the human rights of its indigenous people, the Sami. In particular, it had granted a significant degree of autonomy to the Sami people in the form of the Sami Parliament. He would, however, welcome clarification of certain points. First, in its written reply to issue No. 5, the Government referred to a committee set up in 1997 to review reindeer-herding policy and its administration: had that committee now submitted its report?

31. Secondly, he wondered why the Government, having established the Sami Parliament in 1993, had in 1994 taken away its right to control hunting and fishing activities on Sami village lands, replacing it with unrestricted hunting and fishing rights on all government property, a decision against which Sami leaders had protested. Subsequently, in May 2000, the Committee on the Elimination of Racial Discrimination had expressed "concern ... over the issue of land rights of the Sami people, in particular hunting and fishing rights which are threatened by, inter alia, the privatization of traditional Sami lands"; (CERD/C/304/Add.103, para. 13); he wondered on whose authority Sami lands were being privatized. There was in effect a conflict of interest in reindeer-breeding areas: the Sami right to use the land for herding, hunting and fishing applied to the entire area and yet parts of that land were now owned by other people.

32. Mr. HUNT, referring to the Government's written reply to issue No. 9, said that Sweden deserved great credit for meeting or exceeding the United Nations target allocation of 0.7 per cent of GNP to development assistance, and for taking the issue of development cooperation as seriously as it had done in its 1998 paper Democracy and Human Rights in Sweden's Development Cooperation. Sweden was represented in international financial institutions such as the World Bank and the International Monetary Fund (IMF). It did not have a large percentage vote and acted as part of a group of countries, but perhaps its influence in those institutions was greater than its percentage vote. He would be interested to know,

therefore, whether, in considering policies that would have an impact on another State party to the Covenant, Sweden's representatives in IMF or the World Bank took account not only of Sweden's obligations under the Covenant with regard to international cooperation, but also of the recipient State's obligations under the Covenant.

33. Mr. MARCHAN ROMERO asked whether Sweden's Constitution recognized the existence of cultures such as Sami, Finnish, Roma or Jewish culture, thereby reflecting the multicultural nature of its society. He also wondered what legal statute governed Sami ancestral property and hunting rights. Lastly, he asked why Sweden had not yet ratified the International Labour Organization (ILO), Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169), and whether it was considering doing so.

34. Mr. LINDQVIST (Sweden), replying to Mr. Ahmed, said that the committee on reindeer-herding policy would be reporting soon. On the question of the 1994 decision concerning Sami control over their lands, he was not aware of the details but would answer both Mr. Ahmed and Mr. Marchán Romero by summarizing the Government's approach to Sami land issues and ILO Convention No. 169.

35. According to an alternative "shadow" report, ILO Convention No. 169 had still not been ratified "in spite of endless discussion". In his view, that was not quite fair: first, discussions on minority land rights were important and necessary, and secondly, more than mere discussion had taken place. In 1999, a commission set up to consider the question had proposed that Sweden should ratify the Convention, but that it should do so only after a number of questions had been dealt with, including the definition of Sami land rights under the Convention. Consultative dialogue on the proposals, involving representatives of the Sami, legal experts and various institutions, had taken place throughout the country. The Government had also decided that a written communication outlining ways forward on the question of Sami rights, including land rights, would be presented to Parliament in 2002. Overall, however, the Government continued to hold the position it had explicitly adopted in the past, namely that Sweden should ratify ILO Convention No. 169.

36. Ms. METELIUS (Sweden), replying to Mr. Hunt, said that human rights were indeed an important part of the Swedish Government's development cooperation policy, but that mainstreaming human rights in international organizations was proving difficult: some progress had been made in the United Nations, but less in other organizations

37. The Government had stated clearly in its communications to Parliament that human rights should be an important element of all foreign policy, not just of development cooperation, including in organizations such as IMF and the World Bank. Education was vital within ministries themselves if representatives were to be able to implement the Government's policy of mainstreaming human rights and raising human rights questions in international and regional organizations.

38. On the question of Swedish representatives' positions in decisions that might have an impact on individual States' ability to comply with their obligations under the Covenant, she said that States had made their own commitment under the Covenant, but that the international

community also had a role to play in ensuring the realization of rights. Once again, mainstreaming and continuing discussion of human rights in international forums were the way forward in that regard.

39. Mr. LINDQVIST (Sweden), Replying to Mr. Marchán Romero's question whether Sweden's multicultural society was recognized in law, said that one of the fundamental provisions of the Swedish Constitution was that all Swedish citizens regardless of age, sex or ethnic origin, enjoyed the same basic rights and freedoms. Under the Constitution, foreigners enjoyed nearly all the fundamental political rights of Swedish citizens.

40. Ms. BERGH (Sweden) added that foreigners were not allowed to accept certain offices: for example, they were unable to work as judges or ministers, but in other respects they enjoyed the same rights as Swedish citizens.

41. Ms. BARAHONA-RIERA expressed her concern that the new legislation criminalized the trafficking of persons only where sexual exploitation was involved. She would welcome further details about the problems that were being encountered in drafting legislation to criminalize the trafficking of persons for other purposes. On the issue of prostitution, Swedish legislation was innovative in that it prohibited the purchase of sexual services but did not punish the person selling the service, as that person was generally considered to be the weaker party. Could the reporting State provide any statistics to illustrate that its legislative approach had actually led to a decline in prostitution in Sweden? The perturbing issue of Swedish nationals involved in organized crime abroad called for serious attention, especially if child prostitution was involved. It would be interesting to know what measures were being taken to bring such criminals to justice, as it was often difficult to gather evidence and to try the perpetrators of crimes committed abroad.

42. Mr. HUNT said he would welcome information about mainstreaming company law. Under the Covenant, the Government had a legal obligation to regulate the conduct of companies operating within Sweden, to ensure that those companies did not violate human rights. Did Swedish law make any attempt to regulate the conduct of Swedish companies operating in other countries? If not, did the reporting State consider such regulation necessary?

43. Ms. TROST (Sweden), in reply to Ms. Barahona-Riera's question about the trafficking of persons for the purposes of sexual exploitation, said that the Parliamentary Law Committee had made a proposal to regulate the trafficking of persons for the purposes of prostitution, pornography and other forms of sexual exploitation. With regard to trafficking for other purposes, such as labour exploitation, Sweden had signed and planned to ratify the second Protocol to the International Convention against Transnational Organized Crime, and also the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Furthermore, Sweden had signed the European Union Framework Decision that addressed the problem of the trafficking of persons, and a political decision would be made on whether or not to ratify it. The State party would then consider whether it was necessary to amend its existing laws regarding the trafficking of human beings for the purpose of labour exploitation. In any case, the Government would endeavour to improve the situation, which undoubtedly merited attention

44. Mr. BÄCK (Sweden) said that according to the social services and the police, the new law on prostitution had reduced the number of women working as prostitutes. The legislation made it easier for the police to clamp down on brothels and traffickers as it clearly stated that the purchase of sexual services was punishable by a fine or imprisonment for up to six months. Special programmes had also been introduced to help prostitutes find alternative work.

45. Ms. BERGH (Sweden) added that the legislation was still in the experimental phase and that the Government was eager to make improvements where necessary. For example, there were indications that the police were experiencing some difficulties in proving the purchase of sexual services, particularly when it involved "hidden" prostitution or took place over the Internet. That being said, the new legislation had proved very useful in improving the control of "hidden" prostitution, as police could now follow customers into the relevant establishments.

46. Ms. TROST (Sweden), replying to the question about the State party's capacity to file charges against people abroad, said that Sweden applied the "double criminality" principle whereby it could file charges against a person abroad as long as the crime was also considered an offence in the other country. The Parliamentary Law Committee had discussed whether the principle should cease to apply if serious sexual crimes were committed against children; various ministries were now discussing the matter. Priority should of course be given to improving cooperation between international law enforcement agencies, and although much remained to be done, some progress had been made. For example, the National Criminal Investigation Department, which was responsible for police work in cases of sexual exploitation of children, including child pornography, had issued an action plan for international police work in that field. The Special Objects Unit was responsible for such cases and informed the International Criminal Police Organization (Interpol) when an investigation came up with data with international ramifications. The Unit had also been working to create an innovative national digital reference library of pornographic pictures of children, which had proved very effective in combating such crimes. Interpol would probably introduce a similar system in the near future. A national network had also been set up to improve cooperation between regional police forces, enabling them to cooperate with police in other countries. One good example of international cooperation was a task force set up in the Baltic Sea region to combat organized crime.

47. Ms. METELIUS (Sweden) said that owing to complexities of jurisdiction, there was no international legislation to regulate Swedish companies operating abroad. However, the State party welcomed the Global Compact Initiative proposed by the Secretary-General of the United Nations and hoped that the individual codes of conduct being prepared by multinational companies would be based on the principles set forth in that Initiative. The Government recognized that steps had to be taken to improve the conduct of Swedish corporations, and a dialogue was scheduled to take place in November 2001 between the Government, NGOs and major companies to discuss the concrete action that could be taken in that field. It was important that all Governments should fulfil their obligations under the international human rights instruments with regard to multinational corporations.

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48. Mr. TEXIER said that since the submission of Sweden's third periodic report (E/1994/104/Add.1), major efforts had clearly been made to reduce long-term

unemployment and unemployment among young people. Further details about the current trend of unemployment would be appreciated. A Swedish NGO had indicated that there had been a considerable increase in discrimination against foreigners and ethnic minorities in the workplace. What efforts were being made to reduce such discrimination?

49. Although Sweden had no minimum wage legislation, pay levels were usually set through collective agreements between employers and trade unions. In the private sector, the majority of workers were covered by local or national collective agreements. The delegation should, however, provide information about the rights of workers who were not covered by such agreements. What happened when someone did not earn enough to support his or her family and maintain a decent standard of living? If a collective agreement was not respected, was the case settled through negotiations or could it be heard in a labour tribunal? There still appeared to be a pay differential between men and women performing the same or similar work. Furthermore, it seemed that women occupied more part-time or temporary jobs than did men. Could the delegation provide any information on those issues?

50. Under article 8 of the Covenant, everyone should enjoy the right to form or join a trade union. In the case of Sweden, however, it seemed that people felt that they were under an obligation to do so. In fact, a case involving "negative" freedom of association (Gustafsson v. Sweden) had been heard before the European Court of Human Rights in 1996 and 1998. It would be interesting to receive further information about the impact of the Court's decision on that issue.

51. Mr. CEAUSU acknowledged that several successful programmes had been introduced to reduce long-term unemployment in Sweden. However, an economic study carried out by the Organization for Economic Cooperation and Development (OECD) indicated that unemployed people in Sweden were often reluctant to accept a job, because after they had paid income taxes, social security and other contributions, their monthly income would be not much higher than if they were receiving unemployment benefit. Social legislation therefore seemed to encourage people to remain unemployed. It would be interesting to know whether the Government had considered the problem from that point of view and whether it planned to amend legislation so that people felt more motivated to find work.

52. With regard to the right to just and favourable conditions of work, the Committee understood the explanations given by the State party regarding its reluctance to ratify the ILO Minimum Wage Fixing Convention, 1970 (No. 131). Despite the fact that the Government did not consider it necessary to introduce a minimum wage because the pay level fixed by collective bargaining was often higher than the level that would otherwise be set by the Government, certain groups of people might in fact benefit from a minimum wage. With regard to the right to safety at work, the report indicated that under the Work Environment Act, breaches of the law might be subject to penalty charges instead of criminal sanctions, and that, in cases where criminal sanctions were retained for breaches of the law, imprisonment had been removed from the scale of penalties. However, violations of legal recommendations regarding health and safety were extremely serious. The number of reported occupational accidents was still high, and although the number of fatal accidents had declined, it was still significant. He

failed to understand how a liberal State such as Sweden could be so tolerant towards perpetrators of violations of labour legislation, and how the Government had concluded that replacing criminal sanctions with fines would lead to a reduction in the number of violations.

53. Mr. AHMED said that according to a European Committee of Social Rights Fact Sheet, a foreign worker expelled for reasons of national security had no right of appeal to an independent body, and the situation was the same for self-employed workers. Further clarification was needed. For example, was the word "expelled" used to mean expulsion from the country or expulsion from the job? He failed to understand how in such a case, a person would have no right of appeal. Were foreign workers expelled from their jobs in such circumstances entitled to remain in Sweden?

54. Mr. MARTYNOV drew attention to the fact that the Working Hours Act did not apply to domestic workers or maritime crews, and asked whether there were any instruments to regulate work in those fields. He also referred to Sweden's reservation on article 7 (d) of the Covenant concerning holiday remuneration. What were the reasons behind the reservation and did the Government intend to withdraw it?

55. Mr. STÅLSBY (Sweden), replying to questions raised about current unemployment trends, said that Sweden had traditionally had a low unemployment rate. During the economic crisis of the early 1990s, unemployment, including long-term unemployment, had dramatically increased; that trend had since been reversed, and equally dramatic improvements had occurred among all age groups. Currently, however, the impact of the terrorist acts of 11 September 2001 on the global economy was having a knock-on effect on the Swedish economy.

56. The Government had no plans to ratify ILO Convention No. 131 on Minimum Wage Fixing, since the absence of such legislation did not endanger employees' interests. Sweden had traditionally had strong trade unions and employee associations, and a tradition of using collective agreements to achieve ends often achieved by legislation or official intervention in other countries. The collective agreements contained provisions regarding social security and benefits that in practical terms were tantamount to a minimum wage. Cooperation between employers and employees was another distinctive feature of the Swedish labour market.

57. Ms. BERGH (Sweden) said that labour market discrimination on the grounds of ethnic origin was a problem in Sweden. The Ombudsman against Ethnic Discrimination was receiving an increasing number of complaints, not necessarily because discrimination was increasing, but because that office had been conducting campaigns to inform citizens of their rights. It was the responsibility of the Ombudsman to educate employers, employees and trade unions about legislation prohibiting discrimination on the grounds of ethnic origin. In addition, the Ombudsman brought cases before the Labour Court, which in turn provided useful interpretations of the law. Trade unions also had the power to bring discrimination cases before the Labour Court. Employers were required to take measures to recruit persons whose background was not Swedish.

58. The matter of equal pay for equal work was taken seriously in Sweden. The Equal Opportunities Act had been amended in early 2001, and contained new mechanisms governing

relations between employers and trade unions. It required them to analyse the differences between pay for men and for women, and to implement yearly action plans to redress that imbalance.

59. The Mediation Office was also studying the matter of unequal pay, and setting up seminars for trade unions and employee organizations to discuss how best to handle that problem in local collective agreements. Women's pay was some 15 to 25 per cent lower than men's, and there was a disparity between the blue-collar and white-collar sectors.

60. Mr. STÅLSBY (Sweden), replying to the question raised regarding the Gustafsson v. Sweden case, said it was important to understand that any employee was entitled not to join a union. However, if one employee in an enterprise was a member of a union, the union could take action against the enterprise.

61. Ms. BERGH (Sweden) said that an unemployed person who refused a job offer was no longer entitled to employment benefits. Accordingly, a person could not choose to receive unemployment benefits rather than to re-enter the workforce.

62. Mr. STÅLSBY (Sweden) said that unemployed persons were entitled to 80 per cent of their pay only up to a certain ceiling; so that in fact the actual benefit level was often much lower. In general, incentives to work were quite strong in Sweden.

63. The Government accorded serious attention to health and safety in the workplace, and the relevant budget had been considerably increased. Attention was given not only to the physical conditions of the workplace, but to other aspects of the environment, since stress had been shown to contribute to an increase in sick leave. Criminal sanctions for violations of health and safety standards had been replaced by fines in the interests of applying a uniform system to all labour market-related issues.

64. Ms. METELIUS (Sweden) confirmed that legislation existed providing for the expulsion of a foreigner for reasons of national security. Its provisions were narrow, and it was rarely applied. In ordinary circumstances, the expulsion of foreigners was a carefully regulated area. For example, a foreigner was never expelled to a country in which he ran the risk of being subjected to torture or other cruel or degrading treatment or punishment.

65. Mr. STÅLSBY (Sweden) said that Sweden's reservation to article 7 (d) raised issues similar to those raised by ILO Convention No. 131 on Minimum Wage Fixing: the Government was simply reluctant to hinder the freedom of the social partners.

66. Ms. BERGH (Sweden), replying to a question from Mr. Ceausu, said that the Equal Opportunities Act covered both the public and the private sector. The Swedish labour market was highly segmented by gender: about 50 per cent of all women working in the public sector were employed in the areas of health, social services and education, which were traditionally less well remunerated than areas dominated by men. The Swedish Government, deeply concerned about that matter, was studying the question of equal pay for work of equal value. Several

discrimination cases recently brought before the Labour Court had compared jobs ostensibly quite different, where the work performed had nevertheless been shown to be of equal value - for instance, in the case of female nurses and male nursing auxiliaries.

67. Mr. Mr. STÅLSBY (Sweden), replying to a question raised by Mr. Martynov, said that domestic work was not currently regulated by Swedish law. A Committee was reviewing legislation on working hours, and that situation could therefore change in the foreseeable future.

68. Swedish legislation provided that an employee was entitled to a paid vacation after one full year of work. The social partners could, however, conclude collective agreements with different standards. Essentially, collective agreements could not establish conditions less favourable than those provided under the law.

Articles 10 and 11

69. Mr. SADI, referring to Sweden's reply to issue No. 21, inquired why the Swedish courts had handed down no judgements in cases of child pornography, a burning and important issue. He was also astonished to learn that the Swedish Government determined whether or not a person was a child on the basis of his or her sexual maturity. That was an archaic criterion: maturity was no longer considered to be related to physical development.

70. The reply to issue No. 22 was similarly surprising: the new legislation appeared to specify that an act of violence against a woman must be repeated in order for its perpetrator to be convicted. Clarifications would be welcome.

71. Mr. RIEDEL, referring to the reply to issue No. 27, inquired what practical measures the Government was taking to assist homeless persons, since the responsibility lay with the State party, not with the local authorities. In particular, he wished to know what measures the Government planned to take in the interval before the submission of its next periodic report.

72. Mr. CEAUSU said that he too was stunned by the reply to issue No. 22. What was the sense of a provision requiring a man to commit a violation repeatedly in order to be liable for conviction? He wondered whether a link might exist between the difficulty of suing for divorce and the problem of domestic violence. In that regard, it would be useful to know, whether divorce proceedings were long and onerous, how long divorce trials usually lasted, and whether the courts sometimes refused to grant a divorce.

The meeting rose at 1 p.m.